1950. **File No.** O. Police force (C & D) /50

Legal Dept.

A **BRANCH**

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**Subject:—** Opinions under the Police Force (Control and Direction) Act 1949

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**File No.** O. Police Force /50 (C&D)

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C O N T - D T -

Legal Department File No. C. Police Force (C. & D.) /50

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| 2. | O.No. 8021 14-6-50 | Ss. 5 and 6. Re: Fixation of pay of Police Officers transferred from D'bay City Police Force to Distt. Police Force. | 5-8 |
| 3. | R.I.No.12881 26-7-50 | G.M.'s N.D.No. 7045/5 dt. 24-7-50 Re: Re-... Fixation of ...-of officers of the Greater D'bay Police force transferred to the D'bay Distt. Police Force. | 9-10 |
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L.D.R.I.No. 996 dated 16-1-50.

Submitted with reference to H.D. note at page 11 ante.

It appears from the papers that one Mr. Scot was appointed as a Sergeant and was issued with a sanad under the Bombay City Police Act, 1902, on being selected by the Commissioner of Police, Bombay, on 1.4.1933. He was appointed as an officiating Inspector of Police in Bombay City on 20-4-47 in the grade of Rs. 370-13-500. Since then he has drawn two increments making his basic salary Rs. 396/-. Now, it appears, that he has been transferred to the Bombay District Police and in that case, he will have to draw the salary of a Bombay District Police Inspector in the grade of Rs. 250-10-350. In this representation he has pointed out that due to his transfer to the mofussil he has been put to considerable financial loss and that his future prospect has been marred thereby. However, it seems that the question of fixation of his pay is under the consideration of the Administrative Department concerned.

In his subsequent representation, Mr. Scot has raised a legal point. He states that as the Bombay City Police Act, 1902, under which a sanad was issued to him thereby investing him within the powers, functions and privileges of a Police Officer under the City of Bombay, Police Act, has not been repealed, his transfer to the District Police Force, without his consent is not legal and bad in law.

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Police Force (Control and Direction) Act, 1949.

Section 5(1).

The view taken by the Home Department is correct.

2. Section 5(1) of the Police Forces (Control and Direction) Act,1949 would be a sufficient reply to the contention of Mr. Scot and his consent was not necessary for his transfer from the Bombay City Police Force to the District Police Force. He would not be entitled to any compensation on the ground of such transfer.

Sd/-P.K.Lad
6-2

O.C. Remembrancer of Legal Affairs.

U.R. to H.D. No. 1737, dated the 7th February 1950.

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The Police Force (Control and Direction) Act, 1949, Sections 5 and 6.

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Fixation of pay of Police Officers transferred from the Bombay City Police Force to District Police Force.

The main contention of Mr. Scott appears to be that under the provisions of the Police Forces (Control and Direction) Act, 1949, the Government of Bombay have no power to frame rules in regard to pay scales of officers transferred from the Greater Bombay to the districts; and that so far as his case is concerned he is entitled to continue to get the same scales of pay as he was getting or would have got as an officer appointed under the City of Bombay Police Act, 1902.

2. This contention of Mr. Scott is not altogether correct. It is true that the Police Forces (Control and Direction) Act, 1949, facilitates the transfer of police officers from the Greater Bombay to places outside the Greater Bombay and vice versa, and that sub-section(2) of section 5 of that Act only provides that on transfer an officer shall be deemed to be a member of the force constituted for the area to which he was has been transferred and shall be vested with the powers and privileges of a Police Officer in the Police force to which he has been transferred. However, clause (a) of sub-section (2) of section 6 of that Act empowers the State Government to make rules laying down the conditions of service of officers transferred under the Act. It would be competent for the Government of Bombay in exercise of this power to prescribe by rules the scales of pay to which the officers so transferred shall be entitled.

3. However it would not be legally feasible to give retrospective effect to such scales. So long as rules have not been framed under section 6 and scales of pay have not been fixed it appears ----that

that Mr. Scott would be entitled to draw his salary in the same scale in which he was drawing it before his transfer. It appears that the orders issued in Government Resolution, Home Department No. 7043/5-C 3577, dated the 10th February 1950 fixing Mr. Scott's salary provisionally have been based on the authority of rule 42 of the Bombay Civil Services Rules. But the provisions in the Bombay Civil Services Rules which provide for the fixation of pay of an officer transferred from Greater Bombay would not be applicable to Mr. Scott even by reference to section 16A of the City of Bombay Police Act, 1902, for under that Act it was not legally feasible to transfer him out of Greater Bombay, as he joined the Bombay City Police Force constitued under that Act.

4. There is no force in any of the other contentions raised by Mr. Scott in his application.

Sd/-P.M.Lad
13-6

O.C. Remembrancer of Legal Affairs.

U.R. to H.D.No. 8021, dated the 14th June 1950.

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Fixation of ---- of officers of the Greater Bombay Police Force transferred to the Bombay District Police Force.

GOVERNMENT OF BOMBAY
Home Department
Resolution No. 7043/5
Bombay Castle, 24th July 1950.

Read Government Resolution, Home Department, No. 7043-5, dated the 12th December 1949.

Read Government Resolution, Home Department, No. 7043-5/C-3577 dated the 10th February 1950.

Memorandum from the Remembrancer of Legal Affairs, No.8021, dated the 14th June 1950:-

The Polie Forces (Control and Direction)Act, 1949 sections 5 and 6.

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Fixation of pay of Police Officer transferred from the Bombay City Police Force to the District Police Force.

"The main contention of Mr. Scott appears to ~~4c~~ be that under the provisions of the Police Forces (Control and Direction) Act, 1949, the Government of Bombay have no power to frame rules in regard to pay scales of officers transferred from the Greater Bombay to the districts; and that so far as his case is concerned he is entitl -d to continue to get the same scales of pay as he was getting or would have got as an officer appointed under the City of Bombay Police Act, 1902.

2- This contention of Mr. Scott is not altogether correct. It is true that the Police Forces (Control and Direction) Act ,1949, facilit tes the transfer of police officers from the Greater Bombay to places outside the Greater B Bombay and vice versa, and that sub-section (2) of section 5 of that Act only provides that on trnsfer an officer shall be deemed to be a member of the force constituted for the area to which he has been transferred and shall be vested with the powers and privileges of a Police Officer in the Police force to which he has been transferre However, clause (a) of sub-section (2) of sectior 6 of that Act empowers the State Government to make rules laying down the conditions of service of officers transferred under the Act. It would be competent for the Government of Bombay in exercise of this power to prescribe by rules the scales of pay to which the officers so transferr shall be entitled.

3. However it would not be legally feasible to give retrospective effect to such scales. So long as rul-es have not been framed under section 6 and scales of pay have not been fixed it appears that Mr. Scott would be entitled to draw his salary in the same scale in which he was drawing it before his transfer. It appears that the order issued in Government Resolution, Home Department No. 7043/5-C3577, dated the 10th February 1950 fixing Mr. Scott's salary provisionally have been based on the authority of rule 42 of the Bombay Civil Services Rules ~~which provisions~~ .But the provisions in the Bombay Civil Services Rules which provide for the fixation of pay of an officer transferred from Greater Bombay would not be applicable to

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Mr. Scott even by reference to section 16A of the City of Bombay Police Act, 1902; for under that Act it was not legally feasible to transfer him out of Greater Bombay, as he joined the Bombay City Police Force constituted under that Act.

4. There is no force in any of the other contentions raised by Mr. Scot in his application."

RESOLUTION:- In modification of all the previous orders, Government is pleased to direct that the Police Officers of the Greater Bombay Police Force, who have been transferred to the Bombay District Police Force under the Police Forces (Control and Direction) Act, 1949, should be allowed to draw, pending the framing of the rules under the Act, referred to above, the same pay in the City scale, as they were drawing in the Greater Bombay Police Force prior to their transfers to the Bombay District Police Force.

By order of Governor of Bombay

Sd/-

for Secretary to the Government of Bombay,
Home Department.

To

The Inspector General of Police State of Bombay (by letter),
The Commissioner of Police, Bombay,
The Accountant General, Bombay (through the Finance Department),
The Finance Department,
The Legal Department.

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Office of the R.-G.A.

There would be no objection to fixing the pay of the Police Inspectors and Sub-Inspectors4 provisionally as proposed by H.D. , but the rules proposed to be framed under section 6(2)(a) of the Police Forces (Control and Direction) Act, 1949 cannot be given retrospective effect.

Sd/-P.J.Lad
5-10

D.C. Remembrancer of Legal Affairs.

U.R. to H.D.No. 14110, dated the 7th October 1950.

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